THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 17498 OF 2002

Date: 25.07.2007

Between:

P.S. Munaf.

... Petitioner.

And

The Principal Secretary, Medical and Family Welfare (CI) Department, Secretariat Buildings, Hyderabad and two others.

... Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 17498 OF 2002

ORDER:

Since none appeared on behalf of either the Government Pleader or the Standing Counsel on 18.07.2007, the matter was directed to be posted for judgment today. Today also neither are the Government Pleader and the Standing Counsel present nor is there any representation on their behalf. The petitioner, a diet contractor, questions the action of the third respondent, in denying payment of enhanced rates of dietary charges as per G.O.Ms. No. 191 dated 06.04.1999 and in issuing proceedings dated 12.12.2000, as arbitrary and illegal.

Under G.O.Ms. No. 191 dated 06.04.1999, the Government revised the existing charges for supply of diet in all teaching hospitals with immediate effect in the case of in-patients from Rs.14/- to Rs.15/- and for duty doctors from Rs.20/- to Rs.40/-. The Director of Medical Education, Hyderabad and the Director of Health, Andhra Pradesh Hyderabad were asked to submit necessary proposals for obtaining supplementary grants.

The third respondent issued proceedings dated 12.12.2000 permitting the petitioner to withdraw the enhanced rate of diet charges at Rs.15/- each per patient with effect from 01.11.2000. The said proceedings makes a reference to and is based on G.O.Ms. No. 191 dated 06.04.1999. However, while the G.O. had extended the benefit of increase in charges with immediate effect i.e., from 06.04.1999, the impugned proceedings of the third respondent extends the benefit only from 01.11.2000. The

petitioner, in this writ petition, seeks a direction that this increase in diet charges be extended from 06.04.1999 instead of from 01.11.2000.

In its counter-affidavit the second respondent would state that it is a statutory body created under Act 29 of 1986, and that in the Medical Wing of the Government of A.P., there are three separate departments 1). Director of Medical Education (Teaching Hospital) 2). Hospitals under control of Director of Medical & Health Services, 3). Hospitals under the control of A.P. Vaidya Vidhana Parishad. It is stated that G.O.Ms. No. 191 dated 06.04.1999 issued by the Government relates to hospitals under the control of the Director of Medical Education whereas the district hospitals were hitherto under the control of the A.P. Vaidya Vidhana Parishad, that in April, 2002 the district hospitals were transferred to the Director of Medical Education and thereafter the A.P. Vaidya Vidhana Parishad had nothing to do with these hospitals. It is further stated that, since the district hospitals were hitherto under the control of the A.P. Vaidya Vidhana Parishad, the enhanced charges under G.O.Ms. No. 191 were not applicable and after they were transferred to the control of the Director, Medical Education, which is a separate wing, the Director, Medical Education was alone competent to implement the enhanced charges. It is stated that the enhanced charges were not applicable to hospitals under the control of the A.P. Vaidya Vidhana Parishad.

Accepting the aforesaid contention of the second respondent would necessitate the benefit under G.O.Ms. No. 191

being extended to district hospitals only after they were transferred to the Director of Medical Education from the A.P. Vaidya Vidhana Parishad in April, 2002. The fact, however, remains that the Superintendent Government Hospital, Ananthapur, vide proceedings dated 12.12.2000, has extended the enhanced rates with effect from 01.11.2000 much prior to April, 2002. The counter-affidavit is silent as to the basis on which the benefits under G.O.Ms. No. 191 dated 06.04.1999 was extended to district hospitals only from 01.11.2000 though the G.O. required it to be implemented with immediate effect.

Sri D. Ramakrishna, learned Counsel for the petitioner, would place reliance on a Division Bench judgment of this Court in W.A. No. 280 of 2000 and batch dated 19.07.2001 wherein, with respect to a similar G.O. issued earlier, the Division Bench had directed the respondents to pay the revised rates from the date of the G.O. There shall be a similar direction in this writ petition also. The respondents shall extend the benefit of revised diet charges to the petitioner herein from the date of G.O. Ms. No. 191 i.e., from 06.04.1999. The writ petition is allowed to the extent indicated above. No costs.

Date: 25.07.2007 RAMESH RANGANATHAN, J